

December 19, 2016

Mr. Robert Boyd
AB Consultants, Inc.
7020 Tudsbury Road
Windsor Mill, MD 21244

Re: Bank of America at 11333 McCormick Road
Forest Conservation Variance
Tracking # 03-16-2375

Dear Mr. Boyd:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on December 13, 2016. If granted, this variance would allow removal of four specimen trees to increase parking capacity on a commercial site comprised of two parcels as well as allow forest conservation requirements to be based on the 1.5-acre parcel to be developed as parking lot rather than the entire 16.3-acre site. Two of the specimen trees to be removed are in lawn on the developed parcel, and the others are in forest on the smaller parcel. All are native deciduous species in fair to good condition. The 1.5-acre lot contains one acre of low quality, isolated forest that would be entirely cleared for the parking expansion.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of this property. The petitioner is seeking to improve an existing business office building and parking lot in order to increase employment. The building and parking lot in question have existed since about 1974. While full application of the law would preclude construction of this project due to the number and location of the specimen trees, the site is already developed as an office building, thus beneficial use of the property is being realized. Consequently, we find that this criterion has not been met.

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The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The need to remove four specimen trees and reduce the reforestation requirement is due to unique circumstances associated with the location of these trees relative to the additional area available to expand parking as well as the economics of the parking improvement project rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Granting the variance would facilitate a relatively modest parking expansion that would be commensurate with current zoning and land use of the commercially and industrially developed neighborhood. Therefore, we find that granting the variance will not alter the essential character of the neighborhood; thus, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. There are no jurisdictional streams, wetlands or associated buffers on or near the site. Moreover, storm water management (SWM) will be provided in accordance with the SWM law. Therefore, we find that granting the variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has taken no actions necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing removal of four specimen trees would be consistent with the spirit and intent of the Forest Conservation Law given that required reforestation would be addressed offsite in accordance with an EPS-approved forest conservation plan. Moreover, this is essentially a redevelopment project, which is preferred over new development. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code, with the condition that mitigation is provided for the impacted forest. Additionally, a note must be on all plans stating: "A special variance to the Forest Conservation Law was granted by Baltimore County Department of Environmental Protection & Sustainability on December 19, 2016 to allow the removal of four specimen trees and reduce the project's reforestation obligation."

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It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request. This variance approval does not exempt future redevelopment of this site from complying with Baltimore County's Forest Conservation Law.

Please have the party responsible for meeting the conditions of this variance sign the statement below and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If there are any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely,

Vincent J. Gardina
Director

VJG/ges

c. Wells Stanwick, Bank of America
Anne K. Anderson, Brinjac Engineering
Marian Honeczy, Maryland Department of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Responsible Party's Signature

Date

Responsible Party's Printed Name